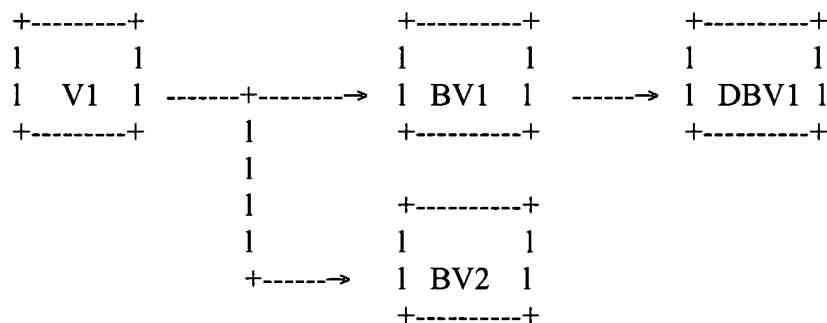


In the final Office Action, all of the claims continue to be rejected under 35 U.S.C. §102 or §103 as being anticipated or obvious over Whiting. These were the same rejections set forth in the previous Office Action dated November 6, 2002. For the reasons discussed in the Response to that Action, which was filed on February 5, 2003 and is incorporated herein, these rejections are respectfully traversed.

As discussed during the telephone interview, each of the independent claims relates to the duplication of backup data. By contrast, Whiting is directed to a number of techniques for creating backup data, but is entirely silent with respect to the duplication of any backup data.

To highlight the distinction, the undersigned and the Examiner had a discussion concerning a three-level abstraction during the telephone interview. That discussion will now be summarized referring to the figure below, in which the volume V1 represents a volume of data in a storage system.



Whiting is directed to the creation of backup data by copying at least some of the data from the volume V1 to a backup volume BV1. The Examiner pointed out that Whiting teaches an incremental backup feature, wherein only portions of the data set that have changed since the previous backup (i.e., BV1) are stored to another backup medium. The undersigned pointed out that this incremental backup feature refers to the creation of another backup volume (such as BV2), which, like the full backup volume BV1, is formed by reading data from the volume V1 and storing it on the backup storage medium. (see e.g., the Abstract “only those files which have changed since the previous backup are actually read *from the volume* and stored on the backup storage means.”).

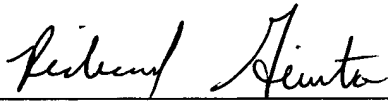
Whiting relates only to techniques for creating backup data by reading data from the volume V1 and storing it on a backup storage medium (e.g., BV1 and BV2). Conversely, all of the pending claims relate to the duplication of backup data where data is copied from a backup storage medium (e.g., BV1) onto a duplicate backup storage medium such as DBV1. As discussed during the telephone interview, Whiting simply provides no teaching whatsoever about the duplication of any backup data from a backup medium.

During the telephone interview, the Examiner questioned whether the claims were sufficiently broad so as to enable the recitation of duplicating backup storage data to be read upon creating multiple backup volumes (e.g., BV1 and BV2 in the example above) that provide backup copies of the volume V1. While the undersigned indicated that he did not believe this to be the case, it was discussed whether a clarifying amendment to claims 1, 7 and 13 would assist in highlighting the distinction. Accordingly, each of independent claims 1, 17 and 13 has been amended to clarify that the reference to copying backup data onto a duplicate backup medium to create duplicate backup data refers to copying data from the backup storage medium, as opposed to directly from the original data on the storage device (e.g., V1 in the example above). In view of those amendments, it is respectfully asserted that claims 1, 7 and 13, as well as the claims that depend therefrom, clearly distinguish over Whiting, such that the rejection of claims 1-19 under §102 as being anticipated by Whiting should be withdrawn.

Similar clarifying amendments have not been made to the other independent claims, because each specifically recites the reading or copying of backup data from at least one backup storage medium. As discussed above, Whiting does not teach the reading or copying of backup data from a backup medium to create a duplicate of the backup data. Therefore, claims 20-24 and 30-39 patentably distinguish over Whiting, such that the rejection of these claims under §102 or §103 in view of Whiting should be withdrawn.

As discussed during the telephone interview, it is believed that the application is in condition for allowance. If the Examiner does not agree, he is respectfully requested to contact the undersigned to discuss any outstanding issues relating to the allowability of the application.

Respectfully submitted,  
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x06/18/03

MARKED UP CLAIMS

1. (Amended) In a computer system including a host computer, a storage device storing data for the host computer, and at least one computer-readable backup storage medium storing backup data copied from the storage device, a method for duplicating at least some of the backup data stored on the backup storage medium, the method comprising a step of:

- (A) copying only a subset of the backup data from the at least one backup storage medium onto at least one computer-readable duplicate backup storage medium as duplicate backup data so that the duplicate backup storage medium is not an exact duplicate of the at least one backup storage medium.

7. (Amended) A computer-readable medium encoded with a program for execution on a computer system including a host computer, a storage device storing data for the host computer, and at least one computer-readable backup storage medium storing backup data copied from the storage device, the program, when executed on the computer system, performs a method of duplicating at least some of the backup data stored on the backup storage medium, the method comprising a step of:

- (A) copying only a subset of the backup data from the at least one backup storage medium onto at least one computer-readable duplicate backup storage medium as duplicate backup data so that the duplicate backup storage medium is not an exact duplicate of the at least one backup storage medium.

13. (Amended) A backup server for use in a computer system including a host computer, a storage device storing data for the host computer, and at least one computer-readable backup storage medium storing backup data copied from the storage device, the backup server comprising:

a controller to control duplication of the backup data, the controller being adapted to copy only a subset of the backup data from the at least one backup storage medium

onto at least one computer-readable duplicate backup storage medium as duplicate backup data, so that the duplicate backup storage medium is not an exact duplicate of the at least one backup storage medium.